

Proposition 1

(H.J.R. 126, 88th Leg., R.S.)

The constitutional amendment protecting the right to engage in farming, ranching, timber production, horticulture, and wildlife management.

SUMMARY ANALYSIS

The proposed constitutional amendment creates a new right for people to engage in generally accepted farm, ranch, timber production, horticulture, and wildlife management practices on land they own or lease. The proposed amendment does not affect the legislature's authority to authorize state or local regulation of those agricultural practices when necessary to protect health and safety, animal health and crop production, or natural resources, or to use the power of eminent domain.

BACKGROUND AND DETAILED ANALYSIS

Farmland and ranch land in this state is being impacted by the growth of urban areas and increasing municipal regulation. The proposed amendment provides constitutional protection to farmers and ranchers engaged in normal practices of agricultural operations on property they own or lease.

H.J.R. 126 amends the Bill of Rights to the Texas Constitution (Article I) by adding Section 36, which would protect the people's right to engage in generally accepted farm, ranch, timber production, horticulture, or wildlife management practices on land they own or lease.

The proposed amendment maintains the legislature's authority to enact laws authorizing the regulation of generally accepted agriculture practices under three circumstances. First, the legislature may authorize a state agency or political subdivision to regulate those practices when there is clear and convincing evidence that the law or regulation is necessary to protect the public health and safety from imminent danger. Second, the legislature may authorize a state agency to regulate those practices to prevent a danger to animal health or crop production. Third, the legislature may authorize a state agency or political subdivision to regulate those

practices to preserve or conserve the natural resources of the state, as provided by Section 59, Article XVI, Texas Constitution.

The proposed amendment also provides that the new right to engage in these activities does not affect the legislature's authority to enact laws authorizing use of the power of eminent domain.

SUMMARY OF COMMENTS

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

Comments by Supporters

- As the state's population continues to grow and the demand for food increases, it is important to prevent municipal overregulation that could threaten agricultural production.
- Enshrining the right to engage in activities such as farming and ranching in the Texas Constitution can help avoid some of the conflict that has been experienced when suburban expansion and development encroaches on working farmland or ranchland.
- Although there are currently protections for farmers and ranchers in statute, there is no guarantee that future legislatures will keep them.
- State agencies and political subdivisions would still be able to address serious concerns involving public health and safety and animal welfare.
- The proposed amendment officially recognizes the authority of the state or a political subdivision to regulate protected activities in order to preserve or conserve the state's natural resources.

Comments by Opponents

- Limiting governments' abilities to set reasonable standards regarding food safety, water pollution, and animal welfare would enable large, industrial factory farms to operate with less accountability, which also could undermine smaller family farms.
- Requiring that a threat to health and safety be "imminent" before regulations may be imposed could hinder the ability of the state or local governments to regulate agricultural operations that could pose a threat to public safety during a natural disaster until the natural disaster was imminent. Additionally, requiring clear and convincing evidence that a regulation is necessary to protect public health and safety is too high a burden of proof.
- By using vague terminology such as "generally accepted practices" and "wildlife management practices," the proposed amendment will lead to confusion or abuses by certain entities.

Text of H.J.R. 126

A JOINT RESOLUTION

proposing a constitutional amendment protecting the right to engage in farming, ranching, timber production, horticulture, and wildlife management.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article I, Texas Constitution, is amended by adding Section 36 to read as follows:

Sec. 36. (a) The people have the right to engage in generally accepted farm, ranch, timber production, horticulture, or wildlife management practices on real property they own or lease.

(b) This section does not affect the authority of the legislature to authorize by general law the regulation of generally accepted farm, ranch, timber production, horticulture, or wildlife management practices by:

(1) a state agency or political subdivision when there is clear and convincing evidence that the law or regulation is necessary to protect the public health and safety from imminent danger;

(2) a state agency to prevent a danger to animal health or crop production; or

(3) a state agency or political subdivision to preserve or conserve the natural resources of this state under Section 59, Article XVI, of this constitution.

(c) This section does not affect the authority of the legislature to authorize by general law the use or acquisition of property for a public use, including the development of the natural resources of this state under Section 59, Article XVI, of this constitution.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment protecting the right to engage in farming, ranching, timber production, horticulture, and wildlife management."

House Author: Burns et al.
Senate Sponsor: Perry